



FFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Pei KAN et al. Confirmation No: 5546
Appl. No. : 10/748,192
Filed : December 31, 2003
Title : THERMOGELLING EMULSIONS FOR SUSTAINED
RELEASE OF BIOACTIVE SUBSTANCE

TC/A.U. : 1609
Examiner : J. M. Rogers

Docket No.: KANP3002/REF
Customer No: 23364

RESPONSE TO OFFICIAL ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Election of Species Requirement set forth in the Official Action of August 21, 2008, in connection with the above identified application. The period for response to this Official Action is set to expire on September 21, 2008. This response is timely filed.

In a telephone discussion with the Supervisory Primary Examiner, Frederick Krass, the undersigned attorney explained the prosecution to date and why the election of species did not seem appropriate at this stage in the prosecution. Mr. Krass indicated that the Official Action should not have been issued and should be withdrawn but that a written response should be filed.

In this regard, the undersigned notes the previous election of species requirement, issued on September 21, 2007, Applicants response thereto of October 19, 2007, and the Examiner's action on the merits on all of the claims and withdrawal of the election requirement as set forth in the Official Action of January 9, 2008.

Moreover, the Examiner's attention is most respectfully directed to MPEP §704.01 and the requirement for full faith and credit which should be given to the

Appl. No. 10/748,192
Response dated: August 28, 2008
Reply to OA of: August 21, 2008

previous Examiner's search and action unless there is a clear error in the previous action. Such clear error is not believed to be present in the present application and therefore, continued prosecution taking into full consideration the amendment filed on April 9, 2008 is most respectfully requested.

An action on the merits of the claims presented in the amendment of April 9, 2008, is in order and is most respectfully requested.

Respectfully submitted,
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